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10/4/02CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the attached was transmitted via facsimile transmission to the Assistant Commissioner for Patents, via facsimile number (703) 872-9306, on this 4th day of October, 2002.

Virginia Dress
Attorney/Agent for Applicants
October 4, 2002
Date

Attorney Docket No. 0964D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pramod B. Mahajan Date: October 4, 2002
Serial No.: 09/805,550 Group Art Unit: 1638
Filed: March 13, 2001 Examiner: Helmer, Georgia L.
For: "Rad23 Genes and Uses Thereof"

Assistant Commissioner for Patents
Washington, D.C. 20231

Response to Restriction Requirement

This is in response to the Restriction Requirement issued September 4, 2002, in which the Examiner has required restriction between Group I (Claims 1-7), Group II (Claims 8-28, and 38-58), and Group III (Claims 8, 29-37, 38, and 59-67). Applicants hereby elect with traverse to prosecute the claims of Group I, and expressly reserve the right to file divisional applications or take other such appropriate measures to protect the inventions in the remaining claims. No change of inventorship is required due to this election of Group I. The Applicants respectfully traverse the Restriction Requirement and request reconsideration of the same.

The Examiner concludes that Groups I and II/III are related as product and process of use. The methods are linked by the use of Rad23 as the starting material. Applicants believe the examination of Groups I-III will rely primarily on the search results of Group I. According to MPEP 803, distinct inventions may be examined

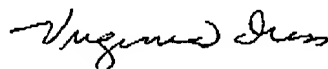
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together. Therefore Applicants respectfully request the rejoinder of Groups I, II, and III.

The Examiner concludes that the inventions of Groups II and III are unrelated. The Examiner states these inventions have different starting materials. Applicants respectfully disagree, as all the methods have Rad23 as the starting material. In fact, this is the apparent basis for the Examiner's restriction of Group I from Groups II and III, "The methods of Group II and III are two different methods of use of the Group I product." Further, the claims of Group III are a subset of the broad claims 8 and 38 also classified in Group II. Also, the Examiner has shown these two Groups to both be classified in the same search area, namely Class 800, Subclass 278. The Examiner has not demonstrated the need for separate searches for the examination of these two Groups. Groups II and III as disclosed are capable of use together and sufficiently related to be combined. Therefore, Applicants respectfully request the restriction between Groups II and III be withdrawn.

Applicants have fully responded to the Restriction Requirement by election of Group I with traverse. Applicants respectfully request reconsideration and withdrawal of the restriction.

Respectfully submitted,



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